unpatentable over Choudhury; and (iii) indicated that claims 4-13 and 17-26 contain allowable subject matter.

In this response, Applicants amend the specification to correct a minor typographical error, and traverse the §102(e) and §103(a) rejections. Applicants respectfully request reconsideration of the present application in view of the following remarks.

With regard to the §102(e) rejection, Applicants initially note that MPEP §2131 specifies that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim," citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). For the reasons identified below, Applicants submit that the Examiner has failed to establish anticipation of at least independent claims 1, 14, 27 and 28 by Choudhury.

Each of independent claims 1, 14, 27 and 28 includes limitations relating to computing delay measures for a plurality of packets including at least one packet from each of a plurality of queues, and selecting a given one of the plurality of packets for transmission based at least in part on a comparison of weighted versions of the computed delay measures, such that the selected packet is the packet having the largest weighted delay associated therewith.

An illustrative embodiment of the claimed invention as described in the specification at page 4, line 12 to page 5, line 28, provides an improved scheduling policy referred to as Largest Weighted Delay First (LWDF). One important advantage associated with this embodiment is that the LWDF scheduling policy is "invariant to changes in stochastic input flow models" (Specification, page 5, lines 26-28).

The Choudhury reference fails to teach or suggest at least the above-noted limitations of claims 1, 14, 27 and 28. The Choudhury reference, in contrast to the claimed invention, discloses a Longest Queue First (LQF) scheduling policy. See, for example, column 4, lines 51-65, which describes the details of the Choudhury LQF scheduling policy. Although Choudhury in column 4, line 66 to column 5, line 10 mentions that "other algorithms for effecting longest queue first

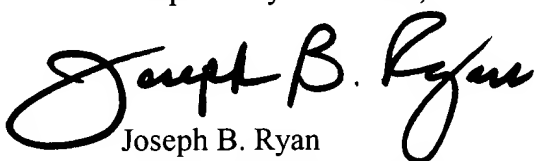
pushout" may be used, including a Longest Delay First (LDF) "dropping mechanism," there is no teaching or suggestion of the particular limitations of claims 1, 14, 27 and 28 relating to LWDF. Claims 1, 14, 27 and 28 are therefore not anticipated by Choudhury, and the §102(e) rejection should be withdrawn. Claims 3 and 16 are believed allowable at least by virtue of their dependence from their respective independent claims.

With regard to the §103(a) rejection of dependent claims 2 and 5, Applicants have submitted herewith a request for continued prosecution application (CPA). In view of this CPA, which is treated as an application filed subsequent to November 29, 1999, the present application thereby obtains the benefit of 35 U.S.C. §103(c). As a result, the Choudhury reference, which issued after the effective filing date of the present application, is no longer available as prior art against the present application in a rejection under §103(a). More specifically, the subject matter of the Choudhury reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, namely assignee Lucent Technologies Inc. An assignment of the present application to Lucent Technologies Inc. was recorded in the U.S. Patent and Trademark Office on September 10, 1999 at Reel 010248, Frame 0505. The §103(a) rejection should therefore be withdrawn, and dependent claims 2 and 5 should be indicated as containing allowable subject matter.

In view of the above, Applicants believe that claims 1-28 are in condition for allowance, and respectfully request withdrawal of the §102(e) and §103(a) rejections.

A marked-up version of the changes made by the present Amendment is attached hereto.

Respectfully submitted,



Date: June 20, 2003

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

The paragraph beginning at page 3, line 8, has been amended as follows:

FIG. 1 shows an illustrative embodiment of the invention as implemented in a portion of a communication [network] network.